their badness. It is not known that personal abuse was perpetrated in them.

575. Wars of factions. Penalties of defeat. Political factions and religious sects have always far surpassed the criminal law in the ferocity of their penalties against each other. Neither the offenses nor the penalties are defined in advance. As Lea says,[1] the treatment of Alberico, brother of Ezzelino da Romano, and his family (1259) shows the ferocity of the age. Ezzelino showed the same in many cases, and the hatred heaped up against him is easily understood, but the gratification of it was beastly and demonic.[2] Great persons, after winning positions of power, used all their resources to crush old rivals or opponents (Clement V, John XXII) and to exult over the suffering they could inflict.[3] In the case of Wullenweber, at Lubeck,[4] burgesses of cities manifested the same ferocity in faction fights. The history of city after city contains similar episodes. At Ghent, in 1530, the handicraftsmen got the upper hand for a time and used it like savages.[5] All parties fought out social antagonisms without reserve on the doctrine: To the victors the spoils ; to the vanquished the woe ! If two parties got into a controversy about such a question as whether Christ and his apostles lived by beggary, they understood that the victorious party in the controversy would burn the defeated party. That was the rule of the game and they went into it on that understanding.

In all these matters the mores of the time set the notions of what was right, or those limits within which conduct must always be kept. No one blamed the conduct on general grounds of wrong and excess, or of broad social

inexpediency. The mores of the time were absolutely imperative as to some matters (e.g. duties of church ritual), but did not give any guidance as to the matters here mentioned. In fact, the mores prevented any unfavorable criticism of those matters or any independent judgment about them.

[1] ***Inquis.,*** **II, 228.**
[2] ***Rerum Ital. Script.,*** **IX, 134.**
[3] **Lea, *Inquis.^* II, 452.**
[4] **Barthold, *Hansa,* III, 291.**
[6] **Raumer, *Hist* Taschenbuch,* 2 ser., Ill, 413.**